

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PRESTIGE & PREMIER COMPANIES)	CASE NO.
d/b/a PRESTIGE HOMES,)	
17 West Streetsboro Street, Suite A)	
Hudson, Ohio 44236,)	JUDGE
)	
Plaintiff,)	
)	
vs.)	<u>COMPLAINT</u>
)	
CROSS CREEK DESIGN GROUP, INC.)	
P.O. Box 237)	
Medina, Ohio 44258)	
)	
and)	
)	
CROSS CREEK DESIGN GROUP, INC.)	
c/o Beth Anello, Statutory Agent)	
17039 Waterbridge Drive)	
North Royalton, Ohio 44133)	
)	
and)	
)	
MATTHEW J. TOLLIS)	
2667 Morning Star Drive)	
Hinckley, Ohio 44233)	
)	
and)	
)	
CHRISTOPHER M. MASTRIANO)	
2189 Stillwagon Road)	
Warren, Ohio 44484)	
)	
and)	
)	
MICHELE M. MASTRIANO)	
2189 Stillwagon Road)	
Warren, Ohio 44484)	
)	
Defendants.)	

For its Complaint against Defendants Cross Creek Design Group, Inc. (“CCDG”), Matthew J. Tollis (“Tollis”), Christopher M. Mastriano (“Chris”), and Michele M. Mastriano (“Michele”), (collectively herein referred to as “Defendants”), Plaintiff, Prestige & Premier Companies d/b/a Prestige Homes (“Plaintiff” or “Prestige”), hereby states as follows:

PARTIES

1. Prestige is a duly organized and existing Ohio corporation with its principal place of business located in Hudson, Ohio.

2. Defendant CCDG is an Ohio corporation with its principal place of business located in Medina, Ohio. At all times relevant herein, CCDG has conducted business activities as a residential design firm in the State of Ohio.

3. Defendant Tollis is an individual residing at 2667 Morning Star Drive, Hinckley, Ohio 44233. At all times relevant herein, Tollis was an employee of Defendant CCDG and provided services as a residential designer and/or architect. Tollis is not a licensed architect in the State of Ohio. Defendant CCDG and Defendant Tollis are hereinafter collectively referred to as the “Cross Creek Defendants.”

4. Defendants Chris and Michele (collectively hereinafter the “Mastriano Defendants”) are individuals residing at 2189 Stillwagon Road, Warren, Ohio 44484.

JURISDICTION AND VENUE

5. This action is brought pursuant to the Federal Copyright laws, 17 U.S.C. §101, *et. seq.* Jurisdiction of this Court is proper under 28 U.S.C. §1338(a).

6. Venue is proper in this judicial district in accordance with 28 U.S.C. §§ 1400(a) and 1391(b).

FACTUAL BACKGROUND

7. At all times relevant herein, Prestige has been and continues to be the author and owner of a variety of unique, proprietary, and copyrighted building plans and building designs for certain styles of homes which are designed, built and sold by Prestige and/or its affiliates and subsidiaries.

8. Among these designs, Prestige created a unique and proprietary design and building plans for homes known as Canterbury Trace.

9. Prestige is the true and legal owner of valid and enforceable copyrights in the Canterbury Trace technical drawings and architectural works (the “Canterbury Trace Design” or the “Canterbury Trace Model”). True and accurate copies of the Certificates of Registration for the Canterbury Trace Design are attached hereto as **Exhibits A and B**.

10. In addition, a true and accurate copy of the copyrighted building plans and specifications for the Canterbury Trace Model is attached hereto as **Exhibit C**.

11. Prestige is also the true and legal owner of a valid and enforceable copyright in a derivative work based on the Canterbury Trace technical drawings and architectural works (the “Canterbury Trace Modification Design” or the “Canterbury Trace Modification Model”). True and accurate copies of the Certificates of Registration for the Canterbury Trace Modification Design are attached hereto as **Exhibits D and E**.

12. In addition, a true and accurate copy of the copyrighted building plans and specifications for the Canterbury Trace Modification Model is attached hereto as **Exhibit F**.

13. In the fall of 2014, the Mastriano Defendants met with Jon Russell, Prestige’s vice president of sales, on several occasions and expressed an interest in purchasing one of Prestige’s homes in the Canterbury Trace Design.

14. The Mastriano Defendants were given the Prestige brochures and were shown and had access to other unique, proprietary, and confidential information, as well as copyrighted materials, including the Canterbury Trace Design.

15. Prestige prepared several versions of plans and drawings for the Mastriano Defendants based on the Canterbury Trace Design which incorporated certain aspects of the other proprietary designs as discussed. Those plans later became the Canterbury Trace Modification Design. The Mastriano Defendants were provided with a copy of the Canterbury Trace Modification Design prepared by Prestige.

16. After the Mastriano Defendants and John Russell, Vice President on behalf of Prestige, had many discussions and after numerous meetings took place in which the copyrighted materials were disclosed to the Mastriano Defendants, the Mastriano Defendants informed Mr. Russell that they had decided to go another direction and terminated further dealings with Prestige.

17. Upon information and belief, the Mastriano Defendants contacted the Cross Creek Defendants and retained their services for the preparation of building plans and specifications for a home that is virtually identical, or at least substantially similar to the Canterbury Trace Modification Design in many respects.

18. Further, upon information and belief, the Mastriano Defendants retained the services of the Cross Creek Defendants to design their home in accordance with the Canterbury Trace Modification Design plans and specifications prepared by Prestige, and provided Prestige's copyrighted and proprietary materials to the Cross Creek Defendants.

19. The Mastriano Defendants are in the process of building their home, in accordance with the plans and specifications prepared by the Cross Creek Defendants, at 4925

Travertine Way, Bath, Ohio 44333. A true and accurate copy of the building plans that were submitted to the Summit County Building Department are attached hereto as **Exhibit G**. These plans infringe Prestige's copyrights.

20. Upon information and belief, the Mastriano Defendants and the Cross Creek Defendants knew or should have known that the plans and specifications utilized by the Defendants in the design and construction of the home were copied from the Canterbury Trace Design and/or the Canterbury Trace Modification Design and, therefore, knowingly and willfully infringed upon Prestige's proprietary rights and copyrighted designs and plans in many respects.

21. As indicated above, the home that was subsequently designed and is presently being built by the Defendants is materially identical or, at a minimum, substantially similar in many respects to the Canterbury Trace Design and/or the Canterbury Trace Modification Design which are the subject of Prestige's valid and existing copyrights.

22. Further, Prestige has been a sole and exclusive owner of all rights and interest in the copyright and publication of the Canterbury Trace Design and/or the Canterbury Trace Modification Design.

COUNT ONE
COPYRIGHT INFRINGEMENT

23. Prestige incorporates by reference each of the foregoing allegations of the Complaint as if fully rewritten herein.

24. Defendants have copied and willfully infringed upon the valid and existing copyrights of the Canterbury Trace Design and/or Canterbury Trace Modification Design, which is a derivative of the Canterbury Trace Design, in violation of the Federal Copyright laws, 17 U.S.C. §101 *et seq.*, and the common law.

25. The actions and conduct of the Defendants as alleged herein were committed without the authority and consent of Prestige and were committed willfully and in complete disregard of Prestige's rights under the law.

26. The acts and conduct of the Defendants alleged herein have caused and will continue to cause irreparable injury and damage to Prestige and, unless the Court enjoins Defendants from further commission of these acts, Prestige will continue to suffer irreparable injury and damage for which there is no adequate remedy at law.

27. As a result of the unlawful and willful acts and conduct of Defendants as alleged herein, Prestige has already incurred substantial damages in an amount to be determined at the trial of this matter.

28. In accordance with the applicable provisions of the Federal Copyright laws, 17 U.S.C. §501 *et. seq.*, Prestige is entitled to recover statutory damages, costs or otherwise entitled to recover those actual damages, including lost profits and related expenses, in addition to its attorneys' fees, which Prestige will demonstrate at the trial of this matter.

PRAYER FOR RELIEF

WHEREFORE, Prestige demands judgment against the Defendants as follows:

- A. As to Count One, the Defendants be held jointly and severally liable for all damages caused by and all profits resulting from their acts of infringement and to account for all gains, profits and advantages derived by Defendants as a result of their infringement;
- B. That Defendants be jointly and severally liable for punitive damages in an amount in excess of \$150,000.00;

- C. That preliminary and permanent injunctive relief be issued by the Court restraining Defendants, their officers, directors, shareholders, owners, agents, employees, successors, and assigns and others acting in concert and privity with them from further infringing in any manner with Prestige's copyrighted building plans and designs, including, without limitation, the designs embodied in the Canterbury Trace Design and/or the Canterbury Trace Modification Design;
- D. That Defendants, their officers, directors, shareholders, owners, agents, employees, successors, and assigns and all others acting in concert and privity with them, be ordered to surrender for destruction all copies and any related materials of the Canterbury Trace Design and/or the Canterbury Trace Modification Design which infringe upon Prestige's copyright(s) and rights related thereto;
- E. That Prestige be awarded reimbursement of its attorneys' fees and costs incurred in bringing this action; and
- F. That Prestige be awarded such other relief and equitable relief as this Court deems equitable and just.

Respectfully submitted,

BUCKINGHAM, DOOLITTLE & BURROUGHS, LLC

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